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FEDERAL COMMISSION OF INVESTIGATION
OFFICE OF SECRETARY

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Before The
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 02554

In the Matter of)	
)	
Interconnection Between Local Exchange)	CC Docket No. 95-185
Carriers and Commercial Mobile Radio)	
Service Providers)	
)	
Equal Access and Interconnection)	
Obligations Pertaining to Commercial)	
Mobile Radio Service Providers)	

I.

**RESPONSIVE COMMENTS OF THE ALLIED PERSONAL COMMUNICATIONS
INDUSTRY ASSOCIATION OF CALIFORNIA ("ALLIED")**

Allied - the trade association representing the majority of California's paging service providers - argued in its initial Comments that existing interconnection arrangements between paging carriers and California's Local Exchange Carriers ("LECs") flout the mutual compensation rule and should be immediately reformed. Under the status quo, paging carriers not only terminate traffic delivered to them by the LECs without any compensation, they pay LECs substantial sums for the receipt of such traffic. Compounding this unfairness is the fact that the LECs themselves bill their own subscribers at rates which assume the LECs are performing termination functions relative to calls placed to paging companies, even

though it is the paging carrier which transports and terminates all such calls. Allied's Comments argued that mutual compensation - both as a matter of fundamental fairness and existing law - must be the basis for replacing current interconnection arrangements between LECs and paging service providers.¹

The Respondents in this Docket have conceded, as they must, that the Telecommunications Act of 1996 ("Act of 1996") makes mutual compensation mandatory, unless the parties mutually agree otherwise. (See Pacific Comments at p. 5 and GTE Comments at p. 4). Each of the California LECs, having endorsed this fundamental rule, proceeds to offer a host of reasons why the rule should not be applied to its own circumstances. As set forth below, their rationale for putting off implementation of mutual compensation in the paging context has no merit. Rather, the California LECs want only to delay indefinitely the day when they must provide fair compensation to paging companies for terminating traffic. Allied is confident that this Commission will not permit such an obviously unfair result.

II.

THE CALIFORNIA LECS' RATIONALE FOR DELAYING IMPLEMENTATION OF MUTUAL COMPENSATION FOR PAGING CARRIERS IS WITHOUT MERIT

A. Pacific Bell.

Pacific, after acknowledging that there must be mutual compensation between LECs and CMRS providers, (Pacific Comments at p. 5) proceeds to trot out arguments why

¹ Also known as providers of narrowband commercial mobile radio services ("CMRS").

implementation should not occur in the foreseeable future. Pacific's reasoning for maintenance of the status quo is based upon the following:

- The Act of 1996 removes the legal basis for the Commission's action in this Docket. (Pacific Comments at p. 1)
- Current interconnection arrangements between Pacific and CMRS carriers are reasonable. (Pacific Comments at p. 7)
- Current interconnection arrangements with paging carriers are five years in length and there is no urgency, therefore, to revise these arrangements. (Pacific Comments p. 7)
- No paging carriers have complained regarding these arrangements (Pacific Comments at p. 27).

All of the above is either flatly wrong or nonsensical. First, the Act of 1996, far from rendering this proceeding moot as Pacific claims, endows the Commission with the responsibility to promulgate particular guidelines for implementing "mutual compensation " and other interconnect related provisions of the Act of 1996 (see Act of 1996, Sections 251(d)(1) and 256(b)(1)).

Second, as Allied demonstrated in its Comments, there is nothing at all reasonable about existing interconnection arrangements between Pacific Bell and paging companies. Paging companies, in essence, incur all the expenses of termination while having to pay Pacific for the privilege of doing so. Moreover, Pacific "double-dips" by charging its own

customers full rates as though Pacific were terminating the calls made by its customers to paging carriers.

Third, there is no compelling reason to delay the implementation of mutual compensation. To the contrary, there is an extreme urgency to revise these arrangements given a.) the years of imbalance that have occurred to date and b.) the new mandate of the Act of 1996. Moreover, Pacific's claim that paging carriers in California are bound by five year contracts is grossly misleading. While a five-year pricing option was made available, very few paging companies in fact availed themselves of this option. More importantly, all interconnection agreements currently in effect are subject to a provision which permits these agreements to be superseded by new terms and conditions in the event the law changes.² In sum, the current interconnection arrangements are, by their own terms, as well as by order of the California Public Utilities Commission ("CPUC"), interim in nature.

Fourth, Pacific is flatly wrong in stating that there have been no complaints filed against the company regarding existing interconnection arrangements. At least a half a dozen parties in California have protested the interconnection tariffs which Pacific Bell filed in response to CPUC Decision 92-01-066. These protests are part of the public record in connection with CPUC Decision 94-04-085 and Pacific's Application 92-06-009. These protests have never been resolved.

² The relevant language states "Pacific offers to provide the services described herein pursuant to this Agreement unless or until a government agency of competent jurisdiction rules to the contrary or until such time as Pacific has effective tariffs on file with the California PUC..." See Paging and Mobile Interconnection p. 2, attached hereto as Exhibit A.

B. GTE.

GTE urges a "rational pricing structure which permits every carrier to recover the costs of terminating traffic from the parties which originate it" (GTE Comments at p. 4). GTE, having agreed to this premise, then looks for every opportunity not to be bound by its rationale. For example, GTE wishes to terminate this proceeding and to reconsider CMRS/LEC issues in connection with "broader and more far reaching changes" (GTE Comments at p. v). GTE also alleges a constitutional right to retain the status quo (GTE Comments at pp. 13-15).

Like Pacific, GTE is anything but forthcoming as to the true nature of existing interconnection terms with paging companies. GTE states proudly that it "do[es] not charge CMRS providers for land-to-mobile traffic". (GTE Comments at pp. 19-20). While the Company qualifies this with a footnote, where it is begrudgingly acknowledges that paging companies are indeed charged for land-to-pager calls, the intent is clear: GTE does not want the Commission to remember that virtually 100% of paging traffic is originated by the LEC and terminated by the CMRS carrier, and LECs pay nothing to the CMRS providers for these termination services. It is not by accident that GTE's description of its interconnection arrangements with paging companies is but half a page in length and buried at the end of its Attachment A, nearly 100 pages into its filing. The Company simply does not want to highlight the grossly inequitable nature of these arrangements. Like Pacific, GTE charges its own customers the full tariffed rates for calls which are made to paging carriers. These

paging carriers must then pay GTE additional charges for the "privilege" of receiving and terminating this traffic.

III.

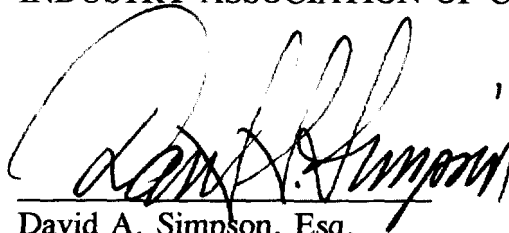
SUMMARY

Paging carriers are CMRS providers which - under the status quo - receive no payment for providing services which, when performed by LECs, entitle them to substantial compensation. The Commission, consistent with the Act of 1996, must not permit this inequitable regime to persist any longer. There are no compelling reasons why a mutual compensation regime should not be immediately implemented for paging-LEC arrangements. The LEC arguments to the contrary are transparently self-serving appeals to retain and extend the unfair benefits they have reaped to date. These appeals must be rejected and mutual compensation ordered forthwith.

Respectfully Submitted,

THE ALLIED PERSONAL COMMUNICATIONS
INDUSTRY ASSOCIATION OF CALIFORNIA

By:



David A. Simpson, Esq.
YOUNG, VOGL, HARLICK,
WILSON & SIMPSON, LLP
Its: Attorneys



PAGING AND MOBILE INTERCONNECTION AGREEMENT

This AGREEMENT, dated _____, 1995 is by and between
PACIFIC BELL, a California corporation (hereinafter referred to
as ("Pacific") and _____, a _____
corporation, hereinafter referred to as ("Carrier").

WHEREAS, Pacific is a duly authorized carrier by wire and radio
engaged in providing telecommunications service in the State of
California; and

WHEREAS, Carrier holds authority from the Federal
Communications Commission and/or the California Public
Utilities Commission to provide paging and/or mobile services
in the State of California; and

WHEREAS, Pacific and Carrier have agreed to connect their
facilities and interchange traffic for the provision of through
communications service by means of facilities and services
which, in large part, are not presently tariffed; and

WHEREAS, Pacific and Carrier desire to enter into a mutually
beneficial arrangement which will permit Pacific to provide
interconnection facilities and services at cost-based rates and
under conditions as provided herein and in the Attachments
appended hereto.

WHEREAS, Pacific offers to provide the services described herein pursuant to this Agreement unless or until a governmental agency of competent jurisdiction rules to the contrary or unless or until such time as Pacific has effective tariffs on file with the CAL. P.U.C. for all or part of the services provided hereunder; and

WHEREAS, Pacific agrees, unless a governmental agency of competent jurisdiction rules to the contrary, that the rates and charges and terms and conditions for services provided hereunder will not be less advantageous to Carrier than those offered to any other paging and/or mobile communications radio carrier for comparable interconnect agreements executed during the term of this Agreement.

WHEREAS, During the life of this Agreement, should Pacific be authorized by the CPUC to tariff Paging and/or Mobile service, Pacific agrees to file a tariff that embodies the rates, terms, and conditions represented within this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements herein contained, Pacific and Carrier hereby covenant and agree as follows:

1. DEFINITIONS

For purposes of this Agreement and as used herein, the terms set forth below shall be defined as follows:

CERTIFICATE OF SERVICE

I, Phyllis Martin, hereby certify that copies of the foregoing Reply Comments of The Allied Personal Communications Industry Association of California in CC Docket No. 95-185 have been served this 25th day of March, 1996, by first-class United States mail, postage prepaid, on the following parties listed on the attached list.

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